Offered: 4/22/89
Referred: Finance

go0559hH

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 147 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to unemployment insurance and to
7 unemployment insurance contribution overpayments;
8 establishing a priority for payment; relating to
9 disclosure of certain wage and unemployment compensa-
10 tion information; and providing for an effective
11 date."

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

13 * Section 1. AS 16.10.290(a) is amended to read:

14 (a) A person applying for a license as a fish processor or
15 primary fish buyer shall file with the commissioner of labor a surety
16 bond running to the State of Alaska conditioned upon the promise to
17 pay (1) all persons furnishing labor to a fish processor or primary
18 fish buyer, including contractual employee benefits; [AND] (2) in-
19 dependent registered commercial fishermen for the price of the raw
20 fishery resource purchased from them; and (3) unemployment insurance
21 contributions. If the surety bond is insufficient to satisfy all
22 obligations under this subsection, the obligations to persons furnish-
23 ing labor and to independent registered commercial fishermen shall be
24 paid before unemployment insurance contributions are paid. The surety
25 or sureties must [SHALL] be satisfactory, in the determination of the
26 commissioner.

27 * Sec. 2. AS 23.20.110 is amended by adding a new subsection to read:

28 (k) If an individual who is applying for or participating in a
29 housing assistance program administered by the United States

1 Department of Housing and Urban Development gives authorization, the
2 department shall disclose, to the United States Department of Housing
3 and Urban Development or to representatives of the housing assistance
4 program operating the program, wage information and unemployment com-
5 pensation information. The authorization shall be made by the indi-
6 vidual on a consent form approved by the department. The form must
7 state the information authorized to be released and require the signa-
8 ture of the individual. In this subsection,
9 (1) "unemployment compensation information" means whether
10 the individual is receiving, has received, or has applied for unem-
11 ployment compensation, and the amount of unemployment compensation
12 that the individual is receiving or will receive;
13 (2) "wage information" means the social security number, or
14 numbers if there are more than one, and quarterly wages of an em-
15 ployee, and the name, address, state, and, if known, federal employer
16 identification number of an employer reporting wages under this chap-
17 ter.
18 * Sec. 3. AS 23.20.145(f) is amended to read:
19 (f) Money credited to the account of this state in the unemploy-
20 ment trust fund by the Secretary of the Treasury of the United States
21 under 42 U.S.C. 1103 (Sec. 903, Social Security Act) may not be requi-
22 sitioned from this state's account or used except for the payment of
23 benefits and for the payment of expenses incurred for the adminis-
24 tration of this chapter. This money may be requisitioned under (b) of
25 this section for the payment of benefits. This money may also be
26 requisitioned and used for the payment of expenses incurred for the
27 administration of this chapter but only under a specific appropriation
28 by the legislature and only if the expenses are incurred and the money
29 is requisitioned after the enactment of an appropriation law <u>that</u>

1 [WHICH]

2 (1) specifies the purpose for which the money is appropri-

3 ated and the amount appropriated;

4 (2) limits the period within which the money may be ob-

5 ligated to a period ending not more than two years after the date of

6 the enactment of the appropriation law; and

7 (3) limits the amount that [WHICH] may be obligated during

8 a fiscal year to an amount that [WHICH] does not exceed the amount by

9 which [(A)] the aggregate of the amounts credited to the account of

10 this state under 42 U.S.C. 1103 (Sec. 903, Social Security Act) during

11 that fiscal year and the 34 [24] preceding fiscal years exceeds [(B)]

12 the aggregate of the amounts obligated for administration and paid out

13 for benefits and charged against the amounts credited to the account

14 of this state during those 35 [25] fiscal years.

15 * Sec. 4. AS 23.20.145(g) is amended to read:

16 (g) Amounts credited to this state's account in the unemployment

17 trust fund under 42 U.S.C. 1103 (Sec. 903, Social Security Act) that

18 [WHICH] are obligated for administration or paid out for benefits

19 shall be charged against equivalent amounts that [WHICH] were first

20 credited and that [WHICH] are not already so charged. However, an

21 amount obligated for administration during a fiscal year specified in

22 this section may not be charged against any amount credited during

23 [SUCH] a fiscal year earlier than the 34th [24TH] preceding fiscal

24 year.

25 * Sec. 5. AS 23.20.195(a) is amended to read:

26 (a) If the contributions are unpaid after 30 days from the date

27 of mailing or personal delivery of a written demand for payment, the

28 department may [SHALL] assess and collect in the same manner as con-

29 tributions a penalty equal to the greater of 10 percent of the

1 contributions due or $10. [IN NO EVENT MAY THE PENALTY BE LESS THAN
2 $1.]
3 * Sec. 6. AS 23.20.205(a) is amended to read:
4 (a) If the department finds that a contribution including inter-
5 est or penalty on the contribution is delinquent, the department may
6 issue a notice of assessment specifying the amount due and may serve
7 it on the delinquent employer. The notice must inform the employer of
8 the department's rights under (c) of this section. A peace officer or
9 an authorized representative of the department may serve the notice
10 personally or the department may mail the notice by certified or
11 registered mail with return receipt requested.
12 * Sec. 7. AS 23.20.205(c) is amended to read:
13 (c) Unless an appeal is filed under AS 23.20.220, if [IF] the
14 amount assessed is not paid within 30 days after personal service or
15 mailing of the notice as required by (a) of this section, the depart-
16 ment may [, SUBJECT TO AS 23.20.220,] collect the amount stated in the
17 assessment by the distraint, seizure, and sale of the property, goods,
18 chattels, and effects of the delinquent employer. Goods and property
19 exempt from execution under the laws of this state are exempt from
20 distraint and sale under this section.
21 * Sec. 8. AS 23.20.220(a) is amended to read:
22 (a) When a notice of assessment is delivered or mailed to a
23 delinquent employer, the employer may within 30 days file an appeal [A
24 PETITION] in writing with the department, stating that the assessment
25 is unjust or incorrect and requesting a hearing on it. The period for
26 filing an appeal may be extended for a reasonable period for good
27 cause. The appeal must [PETITION SHALL] set out the reasons the
28 assessment is objected to and the amount of contributions that [WHICH]
29 the employer admits is due, and must be accompanied by a bond or

1 deposit of other security in the amount of the assessment to ensure
2 [INSURE] collection. The department may waive the security require-
3 ment if the employer submits proof of solvency or reasonable assur-
4 ance, as prescribed by regulations, that the contributions, interest,
5 and penalties due are not in jeopardy. If [NO PETITION IS FILED
6 WITHIN THE TIME PRESCRIBED, OR IF] the employer fails to provide the
7 required security, the collection under AS 23.20.205(c) is not stayed
8 [THE ASSESSMENT IS PRIMA FACIE CORRECT]. The department shall adopt
9 regulations for procedures for an appeal under this subsection [HOW-
10 EVER, THE DEPARTMENT MAY ENTERTAIN A SUBSEQUENT APPLICATION FOR RE-
11 FUND, AND, IF DENIED A REFUND, A HEARING ON THE APPLICATION IN ACCOR-
12 DANCE WITH AS 23.20.225].
13 * Sec. 9. AS 23.20.220(b) is amended to read:
14 (b) If the appeal is accompanied by the required security or the
15 department has waived the security requirement, filing an appeal
16 [FILING A PETITION] on a disputed assessment with the department stays
17 the sale provided for in AS 23.20.210 until a final decision on the
18 assessment is made. However, the filing of an appeal [A PETITION]
19 does not affect the right of the department to perfect a lien as
20 provided in AS 23.20.200.
21 * Sec. 10. AS 23.20.220(c) is amended to read:
22 (c) After granting the appellant [PETITIONER] reasonable oppor-
23 tunity for fair hearing, the department shall make a decision on the
24 appeal [PETITION]. The department's decision is final unless the
25 appellant [PETITIONER] initiates a proceeding for judicial review in
26 the manner provided by AS 23.20.445.
27 * Sec. 11. AS 23.20.225 is amended by adding a new subsection to read:
28 (e) The department shall adopt regulations providing for the
29 disposition of excess contributions paid to the unemployment

compensation fund under AS 23.20.130. The regulations must be substantially similar to the provisions of AS 34.45.110 - 34.45.430.

* Sec. 12. AS 23.20.240(a) is amended to read:

(a) If after notice an employer defaults in the payment of contribution or interest, the amount due may be collected by a person authorized by law and authorized by the department, by civil action in the name of the state, or by both methods. The department shall include in the amount due the fees or costs charged the department by the person for the collection of the delinquent amount. An [AND THE] employer who is [IF FOUND] liable shall pay the cost of the collection, including collection fees charged, and the costs of legal action.

* Sec. 13. AS 23.20 is amended by adding a new section to read:

Sec. 23.20.242. APPEALS BY OFFICER, MEMBER, OR EMPLOYEE. The department shall permit each officer or employee of a corporation or a member or employee of a partnership who is required to pay the contributions and interest owed by the corporation or partnership under AS 23.20.165 - 23.20.278 to appeal individually their duty to pay under those sections.

* Sec. 14. AS 23.20.277(b) is amended to read:

(b) At the end of each calendar quarter, or at the end of any other period as determined by the department, the department shall bill each government entity, nonprofit organization, or group of nonprofit organizations that [, WHICH] has elected to make payments in place of contributions, for benefits paid during the quarter or other prescribed period that are attributable to service in the employ of the government entity, nonprofit organization, or group. In the case of nonprofit organizations and groups of nonprofit organizations, the amount billed is an amount equal to the full amount of regular

1 benefits plus [ONE-HALF OF THE AMOUNT OF] extended benefits that are
2 not reimbursable by the federal government. In [AND IN] the case of
3 a government entity the amount billed is [WHICH HAS ELECTED TO MAKE
4 PAYMENTS UNDER THIS SECTION] an amount equal to the full amount of the
5 regular benefits plus the full amount of the extended benefits paid
6 [DURING THE QUARTER OR OTHER PRESCRIBED PERIOD THAT IS ATTRIBUTABLE TO
7 SERVICE IN THE EMPLOY OF THE NONPROFIT ORGANIZATION].
8 * Sec. 15. AS 23.20.277(e) is amended to read:
9 (e) At the end of each taxable year, the department shall deter-
10 mine whether the total of payments for the year made by a nonprofit
11 organization or group of nonprofit organizations is less than, or in
12 excess of, the total amount of regular benefits plus [ONE-HALF OF THE
13 AMOUNT OF] extended benefits not reimbursable by the federal govern-
14 ment paid to individuals during the taxable year based on wages attri-
15 butable to service in the employ of the nonprofit organization or
16 group. In [; AND IN] the case of a government entity that has elected
17 to make payments under this section, the department shall determine
18 whether the total of payments for the year is less than, or in excess
19 of, the total amount of regular benefits plus the total amount of
20 extended benefits as determined in this subsection. Each organization
21 or group whose total payments for the taxable year are less than the
22 amount so determined is liable for payment of the unpaid balance to
23 the fund in accordance with (f) of this section. If the total pay-
24 ments exceed the amount so determined for the taxable year, all or
25 part of the excess may, at the discretion of the department, be re-
26 funded from the fund or retained in the fund as part of the payments
27 that [WHICH] may be required for the next taxable year.
28 * Sec. 16. AS 23.20.277(l) is amended to read:
29 (l) Each employer that is liable for payments in place of

1 contributions shall pay to the department for the fund the amount of
2 regular benefits plus the [AMOUNT OF ONE-HALF OF] extended benefits
3 not reimbursable by the federal government paid to individuals that
4 are attributable to service in the employ of that employer. However,
5 a government entity that [WHICH] has elected to make payments under
6 this section is liable for the amount of regular benefits plus the
7 full amount of extended benefits that [WHICH] are attributable to
8 service in the employ of that entity. If benefits paid to an indi-
9 vidual are based on wages paid by more than one employer and one or
10 more of these employers is [ARE] liable for payments in place of
11 contributions, the amount payable to the fund by each employer that is
12 liable for payments shall be determined by the department in accor-
13 dance with regulations adopted by the department.
14 * Sec. 17. AS 23.20.340(b) is amended to read:
15 (b) Within one year from the date of the initial determination
16 of the weekly benefit amount and the maximum potential benefit amount
17 established under AS 23.20.350, the department shall reconsider only
18 the determination of the monetary amounts and shall issue a redeter-
19 mination amending the initial determination if it finds that an error
20 in computation or identity has been made or that additional wages
21 pertinent to the claimant's insured status have become available, or
22 that the initial determination resulted from a nondisclosure or mis-
23 representation of a material fact concerning the determination of
24 monetary amounts.
25 * Sec. 18. AS 23.20.378(c) is amended to read:
26 (c) An insured worker is disqualified for waiting-week credit or
27 benefits for a week of unemployment while the insured worker is pursu-
28 ing an academic education [ATTENDS AN ESTABLISHED SCHOOL IN A COURSE
29 OF STUDY PROVIDING ACADEMIC INSTRUCTION OF 10 OR MORE CREDIT HOURS PER

1 WEEK, OR THE EQUIVALENT]. A disqualification under this subsection
2 begins with the first week of academic instruction and ends with the
3 week immediately before the first full week in which the insured
4 worker is no longer pursuing an academic education. However, an
5 insured worker who has been pursuing an academic education for at
6 least one school term and who was working at least 30 hours a week
7 during a significant portion of the time that the worker was pursuing
8 an academic education is not disqualified for waiting-week credit or
9 benefits under this subsection if the worker's academic schedule does
10 not preclude full-time work in the worker's occupation and if the
11 insured worker became unemployed because the worker was laid off or
12 the worker's job was eliminated [ATTENDING CLASSES IF THE INSURED
13 WORKER CERTIFIES THAT THE PERIOD OF NONATTENDANCE WILL LAST AT LEAST
14 60 DAYS]. In this subsection,
15 (1) "pursuing an academic education" means attending an
16 established school in a course of study providing academic instruction
17 of 10 or more credit hours per week, or the equivalent;
18 (2) [THE TERM] "school" includes primary schools, secondary
19 schools, and institutions of higher education.
20 * Sec. 19. AS 23.20.379(c) is amended to read:
21 (c) The department shall reduce the maximum potential benefits
22 to which an insured worker disqualified under [(a) OR (b) OF] this
23 section would have been entitled by three times the insured worker's
24 weekly benefit amount, excluding the allowance for dependents, or by
25 the amount of unpaid benefits to which the insured worker is entitled,
26 whichever is less.
27 * Sec. 20. AS 23.20.379(d) is amended to read:
28 (d) The disqualification required in (a) and (b) of this section
29 is terminated if the insured worker returns to employment and earns at

1 least eight times the insured worker's weekly benefit amount.
2 * Sec. 21. AS 23.20.379 is amended by adding a new subsection to read:
3 (e) An insured worker is disqualified for waiting-week credit or
4 benefits for the first week in which the insured worker is unemployed
5 and for the next 51 weeks of unemployment following that week or until
6 the individual has worked subsequent to the discharge from work and
7 earned 20 times the insured worker's weekly benefit amount in employ-
8 ment covered under this chapter if the insured worker was discharged
9 for commission of a felony or theft in connection with the work. In
10 addition, the insured worker is not eligible for extended benefits
11 under this chapter until the worker has requalified for benefits by
12 meeting the earnings requirement in this subsection.
13 * Sec. 22. AS 23.20.382(b) is repealed and reenacted to read:
14 (b) An otherwise eligible individual may not be denied benefits
15 or waiting-week credit for any week because the individual is in
16 training approved under 19 U.S.C. 2296(a)(1) (sec. 236(a)(1), Trade
17 Act of 1974), if
18 (1) while attending the training, the individual is not
19 available for work, fails to seek work, or refuses work; or
20 (2) the individual left work that was not suitable employ-
21 ment to enter training.
22 * Sec. 23. AS 23.20.382 is amended by adding a new subsection to read:
23 (d) An otherwise eligible individual may not be denied benefits
24 or waiting-week credit for any week because the individual is in any
25 training approved under 29 U.S.C. 1651 - 1658, as amended by P.L.
26 100-418, and, while attending the training, is not available for work,
27 fails to seek work, or refuses work.
28 * Sec. 24. AS 23.20.387(a) is amended to read:
29 (a) An insured worker is disqualified for benefits for the week

1 with respect to which the false statement or misrepresentation was
2 made and for an additional period of not less than six weeks or more
3 than 52 weeks if the department determines that the insured worker has
4 knowingly made a false statement or misrepresentation of a material
5 fact or knowingly failed to report a material fact with intent to
6 obtain or increase benefits under this chapter. The length of the
7 additional [THIS] disqualification and the beginning date of that
8 [THE] disqualification shall be determined by the department according
9 to the circumstances in each case.
10 * Sec. 25. AS 23.20.390 is amended by adding a new subsection to read:
11 (f) In addition to the liability under (a) of this section for
12 the amount of benefits improperly paid, an individual who is disqual-
13 ified from receipt of benefits under AS 23.20.387 is liable to the
14 department for a penalty in an amount equal to 50 percent of the
15 benefits that were obtained by knowingly making a false statement or
16 misrepresenting a material fact, or knowingly failing to report a
17 material fact, with the intent to obtain or increase benefits under
18 this chapter. The department may, under regulations adopted under
19 this chapter, waive the collection of a penalty under this section.
20 The department shall deposit into the general fund the penalty that it
21 collects.
22 * Sec. 26. AS 23.20.530(a) is amended to read:
23 (a) In this chapter, "wages" means all remuneration for service
24 from whatever source, including, but not limited to, insured work,
25 noninsured work, or self-employment; commissions, bonuses, back pay
26 and the cash value of all remuneration in a medium other than cash
27 shall be treated as wages; gratuities customarily received by an
28 individual in the course of service from persons other than the indi-
29 vidual's employing unit may be treated as wages received from the

1 employing unit only to the extent the individual reports the gratu-
2 ities to the employing unit. The reasonable cash value of remunera-
3 tion in a medium other than cash, and the reasonable amount of gratu-
4 ities, shall be estimated and determined in accordance with regula-
5 tions adopted by the department; notwithstanding AS 23.20.350(a), back
6 pay awards shall be allocated to the weeks or quarters with respect to
7 which the pay was earned. If the remuneration of an individual is not
8 based upon a fixed period of time or if the individual's wages are
9 paid in irregular intervals or in a manner that [WHICH] does not
10 extend regularly over the period of employment, the wages shall be
11 allocated to weeks or quarters in accordance with regulations adopted
12 by the department. The regulations must [SHALL], so far as possible,
13 produce results reasonably similar to those that [WHICH] would prevail
14 if the individual's wages were paid at regular intervals. When an
15 employer has filed for bankruptcy, unpaid wages earned for services
16 performed for the employer are considered wages for the quarter in
17 which they were earned.
18 * Sec. 27. AS 23.20 is amended by adding a new section to read:
19 Sec. 23.20.533. APPLICATION FOR DEMONSTRATION PROJECT. (a) The
20 Department of Labor shall pursue application with appropriate agencies
21 to qualify this state as a pilot state for demonstration programs
22 related to helping unemployed Alaskans regain employment, if adminis-
23 trative money is available to operate the project.
24 (b) The Department of Labor may waive provisions of this chapter
25 for individuals who participate in a demonstration project, to the
26 extent required for the state to participate in the project.
27 * Sec. 28. AS 34.45.760(10) is amended to read:
28 (10) "intangible property"
29 (A) includes

(i) money, checks, drafts, deposits, interest, dividends, and income;

(ii) credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, and unidentified remittances;

(iii) stocks and other intangible ownership interests in business associations;

(iv) money deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions;

(v) amounts due and payable under the terms of insurance policies; and

(vi) amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit-sharing, employee savings, supplemental unemployment insurance, or similar benefits;

(B) does not include

(i) unused airline tickets; [OR]

(ii) shares of stock issued by a corporation organized under 43 U.S.C. 1601 - 1629a (Alaska Native Claims Settlement Act) or unclaimed dividends payable on the shares of stock; <u>or</u>

<u>(iii) overpaid contributions by employers to the unemployment compensation fund under AS 23.20.130;</u>

* Sec. 29. AS 23.20.175(a), 23.20.175(b), 23.20.175(c)(1), 23.20.350-(f)(4), and 23.20.350(f)(5) are repealed.

* Sec. 30. Section 28 of this Act is retroactive to September 7, 1986.

* Sec. 31. Sections 11, 28, and 30 of this Act take effect immediately under AS 01.10.070(c).

1 * Sec. 32. Sections 1 - 10, 12 - 27, and 29 of this Act take effect
2 July 2, 1989.